IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI CENTRAL DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 13-4052-14/21-CR-C-BCW
	)	
	)	
WESELY ADAM UPCHURCH,	)	
	)	
Defendant.	)	

ORDER

On March 16, 2016, the Grand Jury returned a fifteen-count third superseding indictment charging the remaining defendants Alexander Vladimir McMillin, Matthew Ashby Hawkins, Patrick Ross Hawkins, Kent Allen Holtz, and Wesley Adam Upchurch. (Doc. 581).

On April 21, 2017, defendant Wesley Adam Upchurch and the Government filed a joint motion for continuance of the July 17, 2017 trial setting. [1]

In any case in which a plea of not guilty is entered, the defendant's trial shall commence within seventy days from the filing of the information or indictment or the date of the defendant's first appearance, whichever comes last. 18 U.S.C. § 3161(c)(1) (Speedy Trial Act). However, in computing the time within which trial of any offense must commence, any period of delay which results from a continuance granted by a judge at the request of the defendant or his or her counsel, which serves the end of justice, shall be excluded from computing the time. 18 U.S.C. § 3161(h)(7)(A). The Speedy Trial Act requires that the Court set forth its reasons for finding that the ends of justice served by the granting of such continuance outweigh the best interests of the public and the defendant in a speedy trial. Factors which this Court shall consider in determining whether to grant a continuance include whether the failure to grant such a continuance would be likely to result in a miscarriage of justice and whether or not the case is so complex that it is unreasonable to expect adequate preparation for trial within the time limit established.

[1] Defendant Upchurch is the sole defendant remaining in this case.

Counsel states that the continuance is sought in order to maintain continuity of government counsel and in the interests of justice.

Upon review of the motion, and pursuant the conversation held with the parties on April 20, 2017, the Court finds that the ends of justice served by granting a continuance outweigh the best interests of the public and defendant in a speedy trial. The motion for continuance of the July 17, 2017, trial setting will be granted and the case will be reset for trial on the Joint Criminal Jury Trial Docket which commences on September 25, 2017. The Court notes that both parties advised the Court that they would be ready for trial on the September 25, 2017 Joint Criminal Jury Trial Docket. Due to the age of this case, and the number of continuances granted, further requests for continuance of the trial will not be granted.

The Court in ordering this case removed from the July 17, 2017 Joint Criminal Jury Trial Docket is not doing so because of congestion of the Court's calendar, in accordance with 18 U.S.C. § 3161(h)(7)(C).

IT IS ORDERED that the joint motion for continuance of the July 17, 2017 trial setting is granted. (Doc. 732). It is further

ORDERED that the above-captioned case is set for trial on the Joint Criminal Jury Trial Docket which commences on September 25, 2017. It is further

ORDERED that a pretrial conference is set for September 12, 2017, at 2:00 p.m. It is further

ORDERED that the additional period of delay in commencing defendant's trial caused by this continuance shall be excluded in computing the time within which this trial shall commence under the Speedy Trial Act.

Dated this 21st day of April, 2017, at Jefferson City, Missouri.

/s/ Matt J. Whitworth

MATT J. WHITWORTH
United States Magistrate Judge